



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, and 63

[EPA-R01-OAR-2020-0006; FRL-10004-44-Region 1]

Notice of Memorandum of Agreement for Delegation of Authority; Connecticut; New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: On October 2, 2019, the Environmental Protection Agency (EPA) Region 1 Administrator signed a Memorandum of Agreement (MOA) between EPA Region 1 and the Connecticut Department of Energy and Environmental Protection (CT DEEP) for delegation of New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAPs). The MOA was signed by the Commissioner of CT DEEP on September 10, 2019. To inform the public of the EPA and CT DEEP's October 2, 2019 MOA regarding delegation of NSPS and NESHAPs, the EPA is making a copy of the MOA available through this document.

DATES: On October 2, 2019, the EPA finalized a Memorandum of Agreement between EPA Region 1 and the CT DEEP regarding delegation of NSPS and NESHAPs.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2020-0006. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information may not be publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are

available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, Air Permits, Toxics, and Indoor Programs Branch, 5 Post Office Square - Suite 100, Boston, MA. The EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION**

CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Lancey, Air Permits, Toxics, and Indoor Programs Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square - Suite 100, (Mail code 05-2), Boston, MA 02109 - 3912, telephone number (617) 918-1656, email lancey.susan@epa.gov.

SUPPLEMENTARY INFORMATION: In a letter dated August 14, 2019, EPA Region 1 suggested that CT DEEP and EPA Region 1 update the protocol for delegation of NSPS and NESHAPs and develop a delegation MOA between EPA Region 1 and CT DEEP. The MOA was signed by the Commissioner of CT DEEP on September 10, 2019 and was signed by the Region 1 Administrator on October 2, 2019. The MOA summarizes the approved delegation mechanisms, the procedures for delegation, and the conditions of delegation. The delegation mechanisms being used for delegation of 40 CFR parts 60, 61, and 63 were previously approved by EPA Region 1 and have not changed, as described in more detail below in the MOA. The August 14, 2019 letter provided a list of previously delegated NSPS and NESHAPs, in order to reconfirm delegation of those standards. In addition, the letter provided a checklist for CT DEEP to complete and return to indicate its acceptance of delegation of subsequent standards in parts 60, 61, and 63 for Title V permitted sources, and to request delegation for parts 60 and 61 for all sources, including non-Title V permitted sources. The text of EPA Region 1 and CT DEEP's October 2, 2019 MOA is reproduced below:

Memorandum of Agreement Between Connecticut Department of Energy and Environmental Protection (CT DEEP) and U.S. EPA Region 1 for Delegation of National Emissions Standards for Hazardous Air Pollutants (NESHAPs) and New Source Performance Standards (NSPS)

I. Delegation Mechanisms

On April 23, 1999, EPA approved CT DEEP's delegation mechanism to accept delegation of the Clean Air Act (CAA) Section 111 and Section 112 federal standards for sources that have obtained a CAA Title V operating permit. *See* 64 FR 19922. This Memorandum of Agreement (MOA) reconfirms the delegation mechanism approved in the April 23, 1999 *Federal Register* notice for delegation of part 60 NSPS, part 61 NESHAPs, and part 63 NESHAPs for Title V permitted sources upon issuance of the Title V permit incorporating the applicable standards for affected sources. EPA's April 23, 1999 approval referenced the delegation procedures in a letter dated October 7, 1996 from CT DEEP to EPA Region 1. This MOA revises the delegation procedures contained in the October 7, 1996 letter and provides revised conditions of delegation.

CT DEEP can accept delegation of part 60 NSPS and part 61 NESHAPs for all stationary sources, including non-Title V operating permitted sources, under the authority in 22a-174-9 of the Regulations of the Connecticut State Agencies (RCSA). This delegation mechanism was approved in a letter dated September 30, 1982 from EPA Region 1 to CT DEEP, was confirmed in a letter dated December 22, 1994 from EPA Region 1 to CT DEEP, and was again confirmed in a letter dated November 8, 2018 from CT DEEP to EPA. This MOA reconfirms this delegation mechanism for part 60 NSPS and part 61 NESHAPs. In addition, this MOA revises the procedures and conditions of delegation contained in the September 30, 1982 letter.

II. Procedures for Delegation

1. EPA Region 1 will provide an annual letter to CT DEEP with a checklist identifying the newly promulgated part 60 NSPS, part 61 NESHAPs, and part 63 NESHAPs standards and amendments to standards which have been previously delegated.
2. CT DEEP will complete the checklist and return it to EPA Region 1 within 60 days of receipt of the checklist. For each standard, CT DEEP will indicate whether there are any affected sources in the State.
3. CT DEEP will complete the checklist to indicate whether CT DEEP requests delegation of part 60 NSPS, part 61 NESHAPs, and part 63 NESHAPs standards for affected sources subject to the Title V operating permit program. Delegation of a standard for a source subject to a Title V operating permit occurs upon issuance of the Title V operating permit incorporating the applicable standards for affected sources.
4. CT DEEP will complete the checklist to indicate which new part 60 NSPS and part 61 NESHAPs standards, if any, for which the CT DEEP is requesting delegation for all sources.
5. Amendments to standards previously delegated will be automatically delegated, unless CT DEEP declines delegation in writing to EPA Region 1 within 60 days of receipt of the annual checklist.
6. Upon receipt of the completed checklist, EPA Region 1 will issue a letter to the CT DEEP confirming delegation of the federal standards.
7. EPA Region 1 will develop and maintain a list of delegated NSPS and NESHAPs on the EPA Region 1 website.

III. Conditions of Delegation

1. CT DEEP will assume primary responsibility for enforcement of delegated NSPS and NESHAPs.

2. CT DEEP will not grant a variance from compliance with applicable emission standards of NSPS and NESHAPs.
3. CT DEEP will communicate with EPA Region 1 to keep each office fully informed regarding the current compliance status of subject sources in Connecticut and interpretation of applicable regulations.
4. CT DEEP will require all NSPS and NESHAPs sources to adhere to the reporting, monitoring, and recordkeeping requirements specified in the NSPS and NESHAPs, except as may be modified through Title V streamlining or other approvals. CT DEEP will describe any Title V streamlining or alternatives to reporting, monitoring, and recordkeeping in the Title V Technical Support Document or in documentation concerning approvals for modifications of reporting, monitoring and recordkeeping for non-Title V sources.
5. CT DEEP will issue applicability determinations that are routine in nature and will forward to EPA Region 1 any applicability questions that are unique or unusually complex. EPA Region 1 will provide technical assistance as necessary to the CT DEEP.
6. EPA delegates only the authority to approve minor or intermediate alternatives to test methods and monitoring¹. EPA retains the authority to approve major alternatives to test methods and monitoring. CT DEEP must maintain a record of all approved alternatives to all monitoring, testing, recordkeeping, and reporting requirements and provide this list of alternatives to EPA Region 1 at least semi-annually.
7. CT DEEP will follow the process identified in 40 CFR section 63.96(b) for returning delegation of part 61 NESHAPs or part 63 NESHAPs standards. CT DEEP will notify EPA

¹ Forty CFR part 63 subpart E, section 63.91(g) specifies the part 63 subpart A authorities which may be delegated. In addition, the EPA document titled "How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring" (EPA 305-B-99-004, February 1999) specifies that EPA may delegate the authority to issue minor or intermediate alternatives to test methods and monitoring for part 60 NSPS and part 61 NESHAPs. This guidance document and 40 CFR section 63.90 provide definitions of minor, intermediate, and major alternatives to test methods and monitoring.

Region 1 in writing if CT DEEP intends to return delegation of any part 60 NSPS and will coordinate with EPA Region 1 on the process required for returning delegation of a part 60 NSPS standard.

8. CT DEEP will coordinate with EPA Region 1 on the process required in the event CT DEEP intends to pursue partial delegation of part 60 NSPS, part 61 NESHAPs, or part 63 NESHAPs standards.

9. If the EPA Regional Administrator determines that CT DEEP is not adequately implementing or enforcing NSPS or NESHAPs, the Regional Administrator may revoke delegation of NSPS or NESHAPs in whole or part.

V. Signatures

For the United States, United States Environmental Protection Agency, Region 1

Dennis Deziel, Regional Administrator, October 2, 2019

For the State of Connecticut, Department of Energy and Environmental Protection

Katherine S. Dykes, Commissioner, September 10, 2019

This document informs the public of EPA Region 1 and CT DEEP's October 2, 2019 Memorandum of Agreement for delegation of NSPS and NESHAPs. In addition, as specified in the October 2, 2019 MOA, EPA Region 1 has developed and will maintain a list of NSPS and NESHAP standards delegated to CT DEEP, available on the <https://www.epa.gov/caa-permitting/epa-region-1-state-delegations-federal-new-source-performance-standard-nsps-and> web site. The list of delegated standards, the October 2, 2019 MOA, and accompanying letters exchanged between EPA Region 1 and CT DEEP are also available in the public docket for this action identified in the ADDRESSES section above.

List of Subjects in 40 CFR Parts 60, 61, and 63

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: January 15, 2020.

Dennis Deziel,
Regional Administrator,
EPA Region 1.

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